REMARKS

Please consider the foregoing amendments and the following remarks in response to the Office Action mailed on June 18, 2009.

The claims have been amended in response to rejections under 35 U.S.C. §112 and for clarification.

Rejections under 35 U.S.C. §112

The limitation "the intermediate layer" in line 3 of claim 14 has been replaced by "wear layer" and the wear layer has been defined in the claim consistent with the specification at ¶[0027] and [0031] and elsewhere in the specification. Claim 10 has also been amended consistent with these amendments and to delete the term "preferably" in two instances.

Claim 19 has been cancelled.

Claim 20 has been amended consistent with United States claim practice.

Rejections under 35 U.S.C. §102

Claims 10, 11 and 18-20 are rejected under 35 U.S.C. §102(b) as being anticipated by Remmert (U.S. Patent No. 3,829,343). But Remmert uses a separately applied melt adhesive to adhere a sheet material to a foam and the process is spelled out in column 3, lines 34-57 of the Remmert patent. According to Remmert, a "thin melt adhesive foil is melted into extremely fine droplets" to provide a tacky foam plastic surface. (See Remmert, col. 3, ln. 44-45.) "... the tacky droplets are not formed by polyurethane decomposition products, but by the hot-melt adhesive. The sheet material which is to form the lining is then introduced into the tacky foam plastic

surface." And the materials are then united with one another. (See Remmert, col. 3, ln. 50-54.)

Applicants' process does not use a separately applied hot-melt adhesive. Instead, in a cold application process, applicants apply the bottom surface of the wear layer to the preheated backing and then the wear layer is melted at a temperature between 120°C and 180 °C to insure that it adheres with the backing. This is followed by cooling. The rejected claims accordingly cannot be anticipated by Remmert because Remmert does not meet the all elements rule. And the claims cannot be rendered obvious by Remmert because Remmert does not teach or suggest adhering a wear layer to a backing without separately applying a hot-melt adhesive. We, therefore, respectfully request withdrawal of the rejection under 35 U.S.C. §102(b).

Regarding claim 10, the terms "preferably" have been deleted but, again, the claim is distinguished from Remmert because claim 10 does not use a separately applied hot-melt adhesive to adhere a subsequently introduced sheet material to a foam surface.

As to claims 11, 16 and 17, all of these claims depend from claim 10 and they are patentable over Remmert because claim 10 has been distinguished from Remmert and is patentable over Remmert.

Claim 18 is distinguished from Remmert because Remmert requires a means to separately introduce a hot-melt adhesive which is not required by applicants' claims.

Claim 19 has been cancelled and claim 20 has been amended to read as a product-by-process claim based upon patentable claim 10. Accordingly, claim 20 is patentable as dependent from claim 10.

Rejections under 35 U.S.C §103

As to paragraph 9 of the Action, the Examiner's presumption is correct.

All of the rejections under 35 U.S.C. §103 are based upon Remmert as a primary reference. None of the references combined with Remmert in the rejections overcome the deficiencies of Remmert and, accordingly, the rejections should be withdrawn.

Claim 12 is rejected under 35 U.S.C. §103(a) as being unpatentable over Remmert in view of Hashimoto, et al. (JP 5725315). The foregoing discussion of Remmert distinguishes it from applicants' claims because Remmert requires a separately applied hot-melt adhesive which is melted into extremely fine droplets before application of the lining, unlike applicants' process. Hashimoto cannot cure the deficiencies of Remmert as to claim 12 because claim 12 depends from patentable claim 10 and Hashimoto doesn't suggest a process that does not use a separately applied hot-melt adhesive.

Claims 13-15 are rejected under 35 U.S.C. §103(a) as being unpatentable over Remmert in view of Lee, et al. (WO 97/27259) or the admitted prior art (applicants' specification pages 6 and 7). The foregoing discussion of Remmert distinguishes it from applicants' claims because Remmert requires a separately applied hot-melt adhesive, which is melted into extremely fine droplets before application of the lining, unlike applicants' process. Lee and the admitted prior art cannot cure the deficiencies of Remmert as to claims 13-15 because claims 13-15 depend from patentable claim 10 and neither Lee nor the admitted art suggests a process that does not use a separately applied hot-melt adhesive.

Claim 13 is rejected under 35 U.S.C. §103(a) as being unpatentable over Remmert in view of Hanoka (U.S. 6,114,046). The foregoing discussion of Remmert distinguishes it from applicants' claims because Remmert requires a separately applied hot-melt adhesive which is melted into extremely fine droplets before the application of the lining, unlike applicants' process. Hanoka cannot cure the deficiencies of Remmert as to claim 13 because claim 13 depends from patentable claim 10 and Hanoka doesn't suggest a process that does not use a separately applied hot-melt adhesive.

Claims 14 and 15 are rejected under 35 U.S.C. §103(a) as being unpatentable over Remmert and Hanoka as applied to claim 13 above, and further in view of Lee. The foregoing discussion of Remmert distinguishes it from applicants' claims because Remmert requires a separately applied hot-melt adhesive which is melted into extremely fine droplets before application of the lining, unlike applicants' process. Hanoka and Lee cannot cure the deficiencies of Remmert as to claims 14 and 15 because claims 14 and 15 depend from patentable claim 10 and Hanoka and Lee do not suggest a process that does not use a separately applied hot-melt adhesive.

Claims 17 and 18 are rejected under 35 U.S.C. §103(a) as being unpatentable over Remmert in view of Hanawa, et al. (JP 05004248). The foregoing discussion of Remmert distinguishes it from applicants' claims because Remmert requires a separately applied hot-melt adhesive which is melted into extremely fine droplets before application of the lining, unlike applicants' process. Hanawa cannot cure the deficiencies of Remmert as to claims 17 and 18 because claims 17 and 18 depend from patentable claim 10 and Hanawa does not suggest a process that does not use a separately applied hot-melt adhesive.

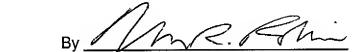
Conclusion

The instant application is believed to be in condition for allowance. A Notice of Allowance of claims 10, 12-18 and 20 is respectfully requested. The Examiner is invited to telephone the undersigned at (908) 722-0700 if it is believed that further discussions, and/or additional amendment would help advance the prosecution of the instant application.

If any extension of time for this response is required, applicants request that this be considered a petition therefor. Please charge any required petition fee to Deposit Account No. 14-1263.

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 14-1263.

Respectfully submitted,
NORRIS MCLAUGHLIN & MARCUS, P.A.

By 

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